

MAY 25 2011

Board of Vocational Nursing
and Psychiatric Technicians

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**BEFORE THE
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. VN-2009-1166

WAIKYISHA KATASMIA GORDON
26026 9th Street
San Bernardino, CA 92410

A C C U S A T I O N

Vocational Nurse License No. VN 225425

Respondent.

Complainant alleges:

PARTIES

1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric Technicians, Department of Consumer Affairs.

2. On or about January 18, 2007, the Board of Vocational Nursing and Psychiatric Technicians issued Vocational Nurse License Number VN 225425 to Waikyisha Katasmia Gordon (Respondent). The Vocational Nurse License was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2013, unless renewed.

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1 8. Section 2878.8 of the Code states:

2 "The board may deny any application or may suspend or revoke any license issued under
3 this chapter [the Vocational Nursing Practice Act] based upon the denial of licensure, suspension,
4 restriction, or other disciplinary action of a license by another state, any other government
5 agency, or by another California health care professional licensing board. A certified copy of the
6 finding shall be conclusive evidence of that action provided that, if from another state, the
7 findings establish an act which if committed in California would be grounds for discipline."

8 9. Section 141 of the Code states:

9 "(a) For any licensee holding a license issued by a board under the jurisdiction of the
10 department, a disciplinary action taken by another state, by any agency of the federal government,
11 or by another country for any act substantially related to the practice regulated by the California
12 license, may be a ground for disciplinary action by the respective state licensing board. A
13 certified copy of the record of the disciplinary action taken against the licensee by another state,
14 an agency of the federal government, or another country shall be conclusive evidence of the
15 events related therein.

16 "(b) Nothing in this section shall preclude a board from applying a specific statutory
17 provision in the licensing act administered by that board that provides for discipline based upon a
18 disciplinary action taken against the licensee by another state, an agency of the federal
19 government, or another country."

20 10. Section 11032 of the Health and Safety Code provides, in pertinent part, that the term
21 "narcotics" means controlled substances classified in Schedule I or II as defined in section 11054
22 or 11055 of that code.

23 **REGULATORY PROVISIONS**

24 11. California Code of Regulations, title 16, section 2518.6, states, in pertinent part:

25 ...

26 "(b) A licensed vocational nurse shall adhere to the standards of the profession and shall
27 incorporate ethical and behavioral standards of professional practice which shall include but are
28 not limited to the following:

1 ...

2 “(4) Abstaining from chemical/substance abuse;

3 ...

4 “(c) A violation of this section constitutes unprofessional conduct for purposes of
5 initiating disciplinary action.”

6 12. California Code of Regulations, title 16, section 2521, states:

7 "For the purposes of denial, suspension, or revocation of a license pursuant to Division 1.5
8 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be
9 considered to be substantially related to the qualifications, functions or duties of a licensed
10 vocational nurse if to a substantial degree it evidences present or potential unfitness of a licensed
11 vocational nurse to perform the functions authorized by his license in a manner consistent with
12 the public health, safety, or welfare. Such crimes or acts shall include but not be limited to those
13 involving the following:

14 "(f) Any crime or act involving the sale, gift, administration, or furnishing of "narcotics or
15 dangerous drugs or dangerous devices" as defined in Section 4022 of the Business and
16 Professions Code."

17 **DANGEROUS DRUGS AND/OR CONTROLLED SUBSTANCES**

18 13. "Marijuana" is a Schedule I controlled substance as classified under Health and
19 Safety Code section 11054, subdivision (d)(13), and is categorized as a dangerous drug pursuant
20 to section 4022 of the Code.

21 **COST RECOVERY**

22 14. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
23 administrative law judge to direct a licensee found to have committed a violation or violations of
24 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
25 enforcement of the case.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 (Unprofessional Conduct – Illegal Use of Drugs to Extent Injurious to Self or Public)

3 15. Respondent is subject to disciplinary action under Code sections 2878, subdivision (a)
4 and 2878.5, subdivision (b), in that on or about April 29, 2009, while employed as a vocational
5 nurse in the State of Mississippi, Respondent failed a drug screening test administered by her
6 employer by testing positive for marijuana, a controlled substance pursuant to Health and Safety
7 Code section 11054, subdivision (d)(13), and a dangerous drug pursuant to section 4022 of the
8 Code. The circumstances are as follows:

9 16. On or about April 29, 2009, Respondent failed a drug screening test administered by
10 her employer in the State of Mississippi by testing positive for marijuana. Disciplinary
11 proceedings were thereby instituted against her by the Mississippi Board of Nursing for violating
12 Mississippi Code Ann. Section 73-15-29 (1) (1), for having engaged in unprofessional conduct
13 pursuant to Chapter II, 1.2 (q) of the rules adopted by the Mississippi Board of Nursing.
14 Respondent then voluntarily entered the Mississippi Board of Nursing Recovery Program in lieu
15 of proceeding to an administrative hearing before its Board. She was further diagnosed with
16 substance abuse by a board-approved assessor and recommended to complete a board-approved
17 Intensive Outpatient Treatment Program. Respondent's license or privilege to practice
18 (vocational) nursing was also restricted for a minimum of two years in the State of Mississippi
19 while she participated in the Recovering Nurse Program.

20 **SECOND CAUSE FOR DISCIPLINE**

21 (Unprofessional Conduct - Failure to Abstain From Chemical and/or Substance Abuse)

22 17. Respondent is subject to disciplinary action for unprofessional conduct under Code
23 section 2878, subdivision (a), in conjunction with California Code of Regulations, title 16, section
24 2518.6, subdivisions (b)(4) and (c), for failing to abstain from chemical and/or substance abuse.
25 Complainant hereby incorporates paragraphs 15 and 16 above as though set forth fully herein.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 (Unprofessional Conduct - Commission of Acts Substantially Related to Licensure)

3 18. Respondent is subject to disciplinary action for unprofessional conduct under Code
4 section 2878, subdivision (a), in conjunction with California Code of Regulations, title 16,
5 section 2521, subdivision (f), for using a controlled substance and dangerous drug to a degree
6 which evidenced present or potential unfitness to perform the functions authorized by her license
7 in a manner consistent with the public health, safety, or welfare, an act considered to be
8 substantially related to the qualifications, functions or duties of a licensed vocational nurse.
9 Complainant hereby incorporates paragraphs 15 and 16 above as though set forth fully herein.

10 **FOURTH CAUSE FOR DISCIPLINE**

11 (Disciplinary Action by Another State, Agency, or Licensing Board)

12 19. Respondent is subject to disciplinary action under Code sections 141 and 2878.8, in
13 that in 2009, the Mississippi Board of Nursing disciplined her nursing license in that state after
14 Respondent tested positive for marijuana and was subsequently diagnosed as a substance abuser.
15 Complainant hereby incorporates paragraphs 15 and 16 above as though set forth fully herein.

16 **PRAYER**

17 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
18 and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians
19 issue a decision:

20 1. Revoking or suspending Vocational Nurse License Number VN 225425, issued to
21 Waikyisha Katasmia Gordon;

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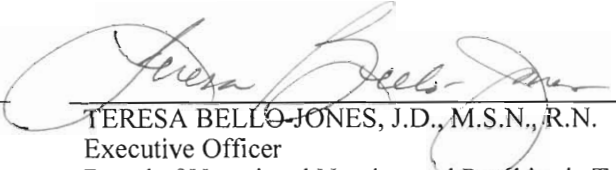
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1 2. Ordering Waikyisha Katasmia Gordon to pay the Board of Vocational Nursing and
2 Psychiatric Technicians the reasonable costs of the investigation and enforcement of this case,
3 pursuant to Business and Professions Code section 125.3;

4 3. Taking such other and further action as deemed necessary and proper.
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7 DATED: May 25, 2011


TERESA BELLO-JONES, J.D., M.S.N., R.N.
Executive Officer
Board of Vocational Nursing and Psychiatric Technicians
Department of Consumer Affairs
State of California
Complainant

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